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MEMORANDUM

Via E-Mail

DATE: June 8, 2009

TO: Firm Clients and Friends

FROM: Bergeson & Campbell, P.C.

RE: Implementation Update of Global Harmonized Systems for the Classification and Labelling of Chemicals

This memorandum provides an update on recent events pertinent to the adoption of the third version of the United Nations (UN) Globally Harmonized System (GHS) guidance document, commonly referred to as the “Purple Book.” Further, this memorandum offers an update on GHS implementation efforts by country and/or region.

Background on GHS Implementation

The third revision of the UN GHS Purple Book was adopted in December 2008. The updated version is expected to be published by the end of June 2009. Amendments to the third revision of the Purple Book are available at <http://www.unece.org/trans/doc/2009/ac10/ST-SG-AC10-36a3e.pdf>. In addition, the Purple Book will hereafter be revised biannually, bringing it into line with the UN Model Regulations for Transport of Dangerous Goods. Due to European Union (EU) language requirements, the next revision (fourth edition) of the Purple Book is expected to rationalize a number of precautionary statements. The fourth edition is scheduled for publication in 2011.

As you likely know, GHS is an acronym for *The Globally Harmonized System of Classification and Labelling of Chemicals*. The GHS is a system for standardizing and harmonizing the classification and labelling of chemicals. It is a comprehensive approach to: (1) define health, physical, and environmental hazards of chemicals; (2) create classification processes that use available data on chemicals for comparison with defined hazard criteria; and (3) communicate hazard information, as well as protective measures, on labels and Safety Data Sheets (SDS).



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The implementation of the GHS system for classification, labelling, and transportation of hazardous goods has not been performed at an agreed upon or set timetable. This has resulted in differing timeframes in which GHS is being implemented by individual countries and/or regions. In addition, the flexibility within each given classification and labelling parameter within the GHS guidance has resulted in significant variation.

The full text of GHS implementation activities by country/region may be found at http://www.unece.org/trans/danger/publi/ghs/implementation_e.html. We provide below a brief overview of the current status of GHS implementation by country/region, which are presented in alphabetical order.

Argentina, Chile, Columbia, Peru, Venezuela

GHS is scheduled for implementation in 2009/2010 with an 18-month transition period.

Australia

GHS is scheduled to be implemented on December 1, 2010, for substances and December 1, 2015, for preparations with no transition period.

Brazil

GHS is scheduled for implementation in 2009/2010 with an 18-month transition period.

Canada

To adopt GHS, Workplace Hazardous Materials Information System (WHMIS) and Hazardous Product Act (HPA) regulations must be amended. Progress amending these regulations has been slow.

China

GHS is expected to be implemented within a short timeframe. Implementation will include a requirement for SDSs to meet *The Safety Data Sheets for Chemical Products - Contents and Order of Sections* regulation (GB/T 16483-2008) effective February 1, 2009. A transition period may be allowed but has not been confirmed. If a transition period is to occur, it is expected to be for a period of one to 16 months.



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European Union (EU)

The Classification, Labelling and Packaging (CLP) regulation 1272/2008 adopted GHS criteria into the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) regulation. REACH Annex I follows the GHS format, and Annex II SDS requirements overlap with CLP regulations.

The following exceptions of GHS implementation by the EU are noted:

1. The flammable liquid category 4 classification liquids having a flash point of 200° F were not adopted;
2. Only the acute toxicity category 1 environmental hazard classification was adopted.

The 30th and 31st Adaptation to Technical Papers are to be incorporated into the CLP regulations in the summer of 2009 with a transition period ending on December 1, 2010. This will lead to a further harmonization for the classification of substances.

The implementation dates for GHS in Europe are December 1, 2010, for substances and 2015 for mixtures.

India

No information is currently available regarding the progress of GHS in India. As such, it is questionable if India's government agencies will accept and adopt GHS compliant SDSs and labels.

Japan

GHS has been implemented for 640 listed chemicals of which 99 are required to be labelled in accordance with GHS. Non-mandatory classification has been adopted for 1,500 substances. The requirement for GHS compliant SDSs is scheduled for June 30, 2010. A GHS consumer product labelling guidance document is available.



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Korea

GHS is scheduled for implementation on June 30, 2010, for substances and June 30, 2013, for mixtures (preparations). GHS environmental classifications are scheduled to be implemented on June 30, 2014, for substances and mixtures (preparations).

Malaysia

Malaysia is currently a UN Institute for Training and Research (UNITAR) pilot country and, as such, is receiving technical assistance with implementation of GHS. The Malaysia Department of the Environment is creating a hazardous substance regulation similar to REACH for hazardous substances.

New Zealand

New Zealand was one of the first countries to adopt GHS on July 1, 2008. Currently, exemptions for GHS compliant labels and SDSs are in place for exports to the U.S., EU, and Australia until 2010 when it is envisaged that GHS will be adopted globally.

Philippines

GHS is scheduled to be implemented in 2010 with a three-year transition period.

Singapore

To incorporate GHS, the Work Safety & Health Act Singapore Standard is currently under revision. The work is scheduled to meet 2010 GHS requirements for substances and 2014 for preparations and mixtures. GHS implementation for preparations will be one year in advance of EU implementation.

Switzerland

For GHS to be adopted in Switzerland, it must amend its classification and labelling regulations, which entered into force on January 2, 2009. As such, GHS implementation is scheduled for 2010.



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Taiwan

The Taiwanese Council of Labour Affairs (similar to the Occupational Safety and Health Administration (OSHA)) is responsible for incorporating GHS into the Taiwan regulatory system. It has created a list of 258 toxic chemical substances. The Council of Labour Affairs is currently working on GHS classification for pesticides and GHS classifications for consumer products and labelling. The requirement for GHS compliant SDSs for toxic substances was adopted on January 1, 2009.

United States

The U.S. Department of Transportation (DOT) regulations will be modified and aligned with GHS. This task involves the transition of transport class 3 and class 6.1, which is scheduled to be completed by 2012.

For the transport of hazardous goods by sea, the GHS marine pollutant criteria will be adopted to enable GHS aquatic toxicity categories 1 and 2. Implementation of marine pollutant criteria is scheduled for January 1, 2010.

OSHA is expected to issue a notice of proposed rulemaking (NPRM) to adopt GHS. The NPRM has been submitted to the Office of Management and Budget (OMB), which has 90 days to review the document prior to issuing its comments. Assuming concurrence, OSHA will publish the proposal in the *Federal Register*. OSHA anticipates that an NPRM to adopt GHS will be submitted by October 2009. Additional details on the NPRM are located at <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200904&RIN=1218-AC20>.

No new information is available from the U.S. Environmental Protection Agency (EPA) in relation to the adoption of GHS, particularly as it relates to pesticide labelling requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The status of EPA's Office of Pesticides Programs' GHS implementation activities are available at <http://www.epa.gov/oppfead1/international/globalharmon.htm>.

The Consumer Product Safety Commission (CSPC) stated that the adoption of GHS is currently a "work in progress."

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We hope this information is helpful. As always, please call if you have any questions.